

Message Text

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ACTION EB-07

INFO OCT-01 EUR-12 IO-13 ISO-00 STRE-00 FEA-01 AGRE-00

CEA-01 CIAE-00 COME-00 DODE-00 FRB-03 H-02 INR-07

INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 AID-05

CIEP-01 SS-15 STR-04 ITC-01 TRSE-00 USIA-06 PRS-01

SP-02 OMB-01 /101 W

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P R 261734Z NOV 76

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 3846

INFO AMEMBASSY VIENNA

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PASS EB/ITP AND EB/ORF

PASS STR ELECTRONICALLY

E.O. 11652: N/A

TAGSS: GATT, ETRD, AU

SUBJ: AUSTRIAN REQUESTS ON SPECIALTYSTEEL

REF: VIENNA 9233

SUMMARY: AUSTRIA REQUESTS SEPARATE COUNTRY QUOTA FOR ALLOY TOOL STEEL, IMMEDIATE ENTRY OF STALLED IN-TRANSIT SHIPMENTS, AND EARLY RESPONSE TO BOTH REQUESTS. END SUMMARY.

1. AS ANTICIPATED REFTTEL, WILLENPART MADE LENGTHY PRE-SENTATION NOV. 26 ON U.S. SPECIALTY STEEL RESTRICTIONS AND REQUESTED THAT U.S. ESTABLISH A SEPARATE COUNTRY QUOTA ON ALLOY TOOL STEEL FOR AUSTRIA AS SOON AS POSSIBLE. WILLENPART NOTED THAT CANADA, WHICH WAS A LESS IMPORTANT HISTORICAL SUPPLIER ALLOY TOOL STEEL, HAD GOTTEN A COUNTRY LIMITED OFFICIAL USE

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QUOTA, WHEREAS AUSTRIA HAD INEXPLICABLY BEEN TOSSED INTO

GLOBAL QUOTA. HE ALSO URGENTLY REQUESTED THAT 200 TONS AUSTRIAN SHIPMENTS WHICH HAD BEEN SURPRISED IN TRANSIT BY OCTOBER 4 ANNOUNCEMENT BE PERMITTED IMMEDIATE ENTRY. FIRMS INVOLVED WERE SUFFERING UNDUE HARDSHIPS AND SOME GOODS ALREADY UNLOADED IN US PORTS WHILE OTHERS DIVERTED TO EUROPEAN PORTS AWAITING DISPOSITION.

2. WILLENPART URGED "VERY EARLY" ANSWER. HE FURTHER ASKED THAT IF UNITED STATES COULD NOT ACCEDE TO ABOVE REQUESTS QUICKLY, WE SUPPLY OUR LEGAL REASONING UNDER THE GATT AND FULL COUNTER-ARGUMENTS. IF US NOT PREPARED TO DO SO, AUSTRIA WOULD BE FORCED TO SEEK RECOURSE PARAGRAPH 3 OF GATT ARTICLE XIX (I.E., MAKE WITHDRAWALS).

3. AS WE TOLD AUSTRIAN DELEGATION, AND AS WE HAD REPEATEDLY TOLD AUSTRIAN MISSION HERE, WE DID NOT FEEL QUALIFIED TO GIVE SUBSTANTIVE REACTION TO ANY OF POINTS RAISED BY AUSTRIA. WE URGED THEM TO PROVIDE US DETAILS IN WRITING FOR TRANSMITTAL TO WASHINGTON AND NOTED OUR PREFERENCE FOR WASHINGTON VENUE. HOWEVER, DUE TO URGENCY OF AUSTRIAN REQUEST WE PROMISED TRANSMIT SUBSTANCE THEIR POINTS BY (THIS) CABLE.

4. AUSTRIAN CASE FOR A SEPARATE COUNTRY QUOTA ON ALLOY TOOL STEEL INCLUDES FOLLOWING ELEMENTS. DURING LAST FIVE YEARS AUSTRIA HAS ALWAYS SUPPLIED MORE TO US MARKET THAN CANADA, YET CANADA RECEIVED COUNTRY QUOTA FOR THIS ITEM. AUSTRIA CLAIMS DE FACTO AND DE JURE DISCRIMINATION. AUSTRIA INTERPRETS ARTICLE XIX:1 (A AND B) REFERENCE TO "ANY" TO MEAN "ANY SINGLE INDIVIDUAL PRODUCT". ARTICLE XIII, PARAS 1 AND 2 REQUIRING NON-DISCRIMINATORY APPLICATION OF QRS CONTAINS SAME REFERENCE TO "ANY". AUSTRIA SAID THIS INTERPRETATION OF WORD "ANY" IS IMPORTANT TO SMALL CPS PRODUCING SPECIALIZED PRODUCTS LIKE THEMSELVES, AS THEY HAVE RIGHTS ONLY UNDER SUCH AN INTERPRETATION.

5. AUSTRIA NOTED THAT U.S. PRESIDENTIAL PROCLAMATION OF JUNE 11, 1976, ANNEX D, SAYS SPECIAL TRADE REPRESENTATIVE MAY REALLOCATE QUOTAS EITHER ON ITEM-BY-ITEM BASIS OR FOR ALL ITEMS, AND THUS STR HAS AUTHORITY TO ASSIGN AUSTRIA A SPECIAL COUNTRY QUOTA FOR ALLOY TOOL STEEL. THEY FURTHER NOTED THAT U.S. NOTIFICATION (L/4368) PAGE 7, PARA 2, UNDER "OTHER COUNTRIES" SAYS TRADITIONAL SUPPLIERS MAY BE TAKEN OUT OF BASKET CATEGORIES IF IT APPEARS THEIR HISTORICAL LEVELS SERIOUSLY THREATENED. THEY SAY U.S. SHOULD HAVE SOUGHT AGREEMENT

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WITH AUSTRIA PER ARTICLE XIII/2(D). FINALLY, THEY NOTED THAT AUSTRIA HAS RECEIVED WRITTEN ASSURANCE FROM SECRETARY OF STATE THAT U.S. WOULD REVIEW MATTER IF AUSTRIA'S TRADE SHOULD APPEAR UNDULY AFFECTED.

6. CLAIMED AUSTRIA "UNDULY AFFECTED" SINCE, AS OF OCTOBER 4 CLOSING OF GLOBAL TOOL STEEL QUOTA, AUSTRIA HAS SUPPLIED 1253 TONS. THIS WAS SHORTFALL OF 103 TONS BELOW REFERENCE PERIOD AVERAGE 1356.6 TONS (BASED ON 60 PERCENT OF TOTAL SHIPMENTS) AND SHORTFALL OF 198 TONS BELOW 1976 60 PERCENT SHIPMENTS OF 1450.8 TONS.BRUNGART

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Draft Date: 26 NOV 1976
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